

**APPROVED
EMPIRE TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES**

March 15, 2022

The Empire Township Planning Commission held a regular meeting on Tuesday, March 15, 2022. The meeting was held at the Empire Township Offices.

CALL TO ORDER: Dick Figura, Chair, called the meeting to order at 6:00 p.m.

ROLL CALL:

Members Present: Dick Figura, Larry Krawczak, Dale DeJager, Duane Shugart, Micah Deegan

Members Absent: None

Staff Present: Dana Boomer, Tim Cypher

APPROVAL OF AGENDA: The board briefly discussed the agenda. Figura stated that Paula Figura would not be presenting tonight, and that he feels that with the draft language in the Master Plan and the increased interest on the part of various governmental units, this item can be dropped from the agenda going forward. He also asked to add Planning Commission Binders to the agenda after ZA Report, and ZBA Appointment to New Business. **Motion by Deegan, second by Shugart to approve the agenda as amended. All in favor, motion carried.**

Figura introduced Dale DeJager as the newest member of the PC, filling the spot left by the passing of Erik Foged.

ANY CONFLICT OF INTEREST – None declared

APPROVAL OF MINUTES: Motion by Deegan, second by Krawczak to approve the November 16, 2021 Meeting Minutes as presented. All in favor, motion carried.

COMMUNICATIONS: None

PUBLIC COMMENT: None

ELECTION OF OFFICERS: The board discussed the annual election of the chairperson, vice-chairperson, and secretary. The current slate of officers is Dick Figura, Chairperson; Duane Shugart, Vice-Chairperson; and Larry Krawczak, Secretary. **Deegan moved, Shugart seconded to re-appoint Figura as Chairperson, Shugart as Vice-Chairperson, and Krawczak as Secretary. All in favor, motion carried.**

ZONING ADMINISTRATOR'S REPORT: Cypher had previously distributed his monthly reports for November 2021 through February 2022. The PC briefly discussed. **Motion by Deegan, second by Shugart to acknowledge receipt of the November 2021-February 2022 reports. All in favor, motion carried.**

PLANNING COMMISSION BINDERS: Figura distributed binders for the Planning Commission, which included important documents at both the township and state level. These include the PC bylaws, the PC ordinance, the Zoning Ordinance and amendments, the Master Plan (current and proposed, including Appendix), and the state Planning Act and Land Division Act, and the Glen Lake-Crystal River

Watershed Overlay District draft. The PC briefly discussed. **Deegan moved to reimburse Figura for his costs on the printing in the amount of \$892.97, and also to print additional copies for the Township Board, the ZBA, and spares up to a total of 10 copies. Shugart seconded. All in favor, motion carried.**

FABER APPLICATION: Cypher stated that the Zoning Ordinance requires a PC review for any residential development over four properties. There is also a requirement for a pre-application meeting, but this can be waived by the PC. The PC briefly discussed whether this needed to be a pre-application meeting or a full site plan review. **Krawczak moved to waive the requirement for a pre-application meeting; Shugart seconded. All in favor, motion carried.** Peter Faber and Peter Fisher presented a request for review of an application for a residential development on Plowman Road south of M-72. He is proposing 13 home sites of between 5 and 20 acres, and a private gravel road, on a property that currently totals 120 acres. There are 2 additional homes sites on the property that have already been approved, for a total of 15.

A letter was received from the Fire Chief, with recommendations regarding the road. The letter also contained a recommendation that a fire department water source be installed. Mr. Faber would request that this recommendation not be made a mandate, as it is a very expensive proposition for a 15-home subdivision. The PC discussed the topic, and wondered if an updated letter could be requested from Chief Ferguson, given the availability of water at the Noonan property at M-72 and Karnes Road. The PC had a consensus to allow the project to move forward regardless of whether an updated letter is received. **Deegan moved to approve the Land Division Application, with the condition of an updated letter being requested from Fire Chief Ferguson. Krawczak seconded. All in favor, motion carried.**

OLD BUSINESS:

- A. **Watershed Overlay District** – Figura updated the PC on the discussion regarding the watershed overlay district since November. The Township Board decided that they were not interested in the Overlay District as presented, with the largest concern being the impact on the properties at the further edges of the watershed. There was additional discussion between Figura and the board, and there was a subsequent motion passed by the board that they had no interest in pursuing the Overlay District. Krawczak then asked if it could be put on the agenda for tonight for further discussion. He asked Deegan for the board's specific concerns. Deegan summarized concerns from the board, but pointed to the board minutes for specific issues. The board felt that if Glen Arbor and Kasson were not participating, Empire should not act alone. In addition, some board members felt that the Zoning Ordinance currently covers what is needed, and the Overlay District added too much restriction to some properties, and not enough to others. There were also several other issues discussed, and a general feeling that there was not enough support on the board to pursue the project. The PC discussed. Krawczak, Figura and Shugart expressed their disappointment in what they felt to be the board's abrupt dismissal of the ordinance amendment.

Bill Witler and others from the Watershed Protection Taskforce (WPT) were present at the meeting. The members of the WPT expressed their thanks to the Planning Commission for their work on the subject, and their disappointment in the board's actions. They submitted a letter with attachments (see attached), which they would like to see maintained on record. The WPT would also like to submit a revised version of the Overlay District Amendment at the May meeting, and have that version placed on record at that time. **Shugart moved, Deegan seconded to acknowledge receipt of the letter and attachments from the Watershed Protection Taskforce. All in favor, motion carried.**

Shugart moved, Krawczak seconded to hear a presentation on the final version of the Watershed Overlay District at the May meeting. All in favor, motion carried.

Cypher requested that any documents regarding the District for the May meeting be sent to the PC in advance, for review, if possible. Figura warned the taskforce members that the PC will be hard-pressed to send additional versions of the overlay district to the Township Board without additional input from the Board. Witler stated that the taskforce understands that, and will be working on their educational platform, as well. The PC and taskforce members continued the discussion on the overlay district, and the methods by which this information can be carried forward.

- B. **Master Plan Review** - Boomer had sent out a new red-line version of the Master Plan, with general updates as discussed at previous meetings. The PC began a final page-by-page review of the Master Plan. The PC and audience discussed items related to the watershed, workforce house, short-term rentals, and transportation. PC will continue the discussion on the Master Plan at the April meeting. In the meantime, Boomer will work on several research items.

NEW BUSINESS:

- A. **2021 Annual Report** – Boomer had sent out a draft 2021 annual report (see attached); the PC discussed. **Deegan moved, Krawczak seconded to forward the 2021 annual report to the board as attached. All in favor, motion carried.**
- B. **ZBA Representative** – As Mr. Foged was the ZBA Representative, a new representative must be appointed. The duties of the position were summarized, and the PC discussed. Mr. DeJager is willing to take the position, if it is for a time-limited period. The Township Board makes the final appointment to the ZBA. Deegan stated that the appointment would be for the length of DeJager's term as PC member; however, as DeJager is filling the remainder of Foged's term, Deegan is not sure what the remaining time period is. He will research that information and pass it along to the PC.
- C. **Pleasure of the Board** – None

PUBLIC COMMENT: None

BOARD COMMENT: Deegan stated that in the Township Board's budgeting process, it was determined that each member of the PC would be getting a \$50/meeting raise. In addition, monies were added to the fund for professional consulting for the PC, and there was an increase to the printing and mailing budget for the PC, to account for the likely Master Plan public hearing.

ADJOURNMENT: **Motion** by Krawczak to adjourn at 8:26 pm. With no objection, Figura adjourned the meeting.

Respectfully Submitted,

Dana Boomer
Recording Secretary

**EMPIRE TOWNSHIP PLANNING COMMISSION
ANNUAL REPORT
March 15, 2022**

Pursuant to section 19 of the Michigan Planning Enabling Act, the Empire Township Planning Commission hereby presents the Empire Township Board with this annual report for the commission's activities during calendar year 2021.

1. Meetings: The planning commission held ten (10) regular meetings.
2. Continued extensive discussion and work on a proposed watershed overlay district, as proposed by the Glen Lake Association in December 2020. In June, held a public hearing on the subject, with further discussion at the PC meeting in July. At the July meeting, the PC voted to forward the proposed amendments to the Leelanau County PC for review, and after review by the LCPC, the issue was moved to the Township Board level at that body's October meeting. Further discussion continued on the subject between the PC and the Township Board through the end of the 2021 year.
3. Public Hearings: Conducted a public hearing on May 18 to review amendments to the Leelanau Orchards development site plan, including the addition of one lot and the construction of the remainder of the proposed road.
4. Master Plan: Continued review of Master Plan, with major focus on future land uses and housing.
5. Review of Neighboring Plans. Reviewed portions of plans from neighboring communities and the county as relevant to the township.
6. Budget request. We do not see the need for any increase in the planning budget. While there may be increased attendance at training programs, there seems to be sufficient funds available for that purpose if the budget remains the same.

Richard J. Figura
Chairperson

Empire Township Planning Commission: Tuesday, March 15, 2022

We respectfully request the opportunity to present the final version of the proposed Overlay District Ordinance (OD) to the Commission at your May 17, 2022 meeting. Thank you for your support of this effort over the last 4 + years through funding, staff participation, Commission meetings, and public hearings. We believe this final version, designed to protect the waters of Glen Lake, addresses the concerns raised by the Commission and community members.

After years of careful review and with input from key Township personnel and the assistance of our consultant Tony Groves of Progressive AE, zoning provisions were narrowed to only those few with the greatest practical benefit for water protection. The need for equitable, understandable, and uniform protection across all townships without adding additional administrative costs to the townships was paramount. As proposed, the OD “grandfathers” existing homes, requiring no changes to their shorelines or structures. Its purpose is to protect the lake when new developments and redevelopments are planned. Importantly, it helps avoid pollution of the upland groundwater in the watershed, since this water is responsible for more than 50% of the water entering our lakes. Most importantly, both Empire and Glen Arbor Master Plans expressly support the OD zoning concept. **Please see attachment A—Empire and Glen Arbor Master Plan Citations.**

The recommendation to implement an OD recognizes that not only is our Watershed one of the most beautiful in the country, but also one of the most scientifically unique. Big Glen is ranked in the top 1% for water quality among all Michigan lakes and is a top contender nationally as well. Lakes of this exceptional quality are increasingly rare and vanishing at a rapid rate. Glen Lake is not immune from this trend. Appreciating the fragile nature of high-quality lakes, states such as Wisconsin, Minnesota, Oregon, Maine, Vermont and even the nearby Crystal Lake Watershed have for decades and with great success, used ODs to protect their precious water resources. **Please see attachment B—Glen Lake Facts and Figures—A Basis for Decision Making.**

Given the accelerated growth of tourism in our area, extended usage of seasonal homes, substantial increase in residential rentals and desire for new and improved construction, the pressure on our waters has never been greater. Lakes and streams have a natural aging process, but without appropriate zoning ordinances the aging process will accelerate unnecessarily and with irreversible consequences. Once a wonderful blue watered lake turns green, it never comes back.

We realize the Township may not be ready to move forward at this time with the Overlay Zoning District. However, we believe there is increasing support from informed Township residents for an OD, driven by accelerated growth in tourism and environmental factors. The OD parameters are entirely consistent with the Master Plans of the Townships. They are not in any way draconian or difficult to enforce. Having the final version of the OD on file with the township will preserve the excellent work we have all completed and will be an important resource for future deliberations.

Accordingly, we request that this subject be placed on the Agenda for the Commission's May 17, 2022 meeting, as Tony Groves is available on this date to discuss the proposed OD Ordinance.

Sincerely,

Glen Lake-Crystal River Watershed Protection Project Task Force:

Jim Dutmers-Co-chair, Glen Arbor Twp
Rob Karner-Co-chair, Glen Arbor Twp
Tony Groves-Consultant, Progressive AE
Roy Pentila, Empire Twp*
David Hayes, Empire Twp
Dennis Becker, Glen Arbor Twp
Bill Witler, Glen Arbor Twp
Don Drabik, Kasson Twp*
Mike Litch, Kasson Twp
Tricia Denton, Cleveland Twp*

*Township liaison representatives

Empire and Glen Arbor Master Plan Citations

Empire Township Master Land Use Plan November 2005

Empire Township's Master Plan states that water quality is important to the township in terms of economics and tourism, the natural environment, and quality of life. Maintaining rural character and natural resources are guiding principles for Empire Township. Specifically, the plan noted:

- As the township's lakes and watersheds are a prime component of what makes it a popular place to live and visit, water quality in the Township is critical to the future success of the Township as an appealing place to live and as an attractive destination for tourists.

With respect to maintaining open spaces and rural character, the plan states:

- Protect the water quality and beauty of lakes and streams by establishing buffer areas along the water's edge that consist of natural vegetation and undisturbed open space, slowing the flow of surface water to minimize soil erosion and siltation of the Township's water resources.

With respect to future land uses and the environment, the Plan states:

- The quality of life in Empire Township is dependent on the health of our watersheds, and future land uses should not degrade them.
- Watershed management utilizes planning techniques such as: protecting sensitive areas (wetlands, steep slopes, and mature forests, etc.) from development; establishing a water edge buffer; limiting the disturbance and erosion of soils during construction; treating the quantity and quality of storm water runoff; minimizing the length and size of driveways; clustering home sites; creating open space in developments; and minimizing the amount of impervious areas.

With respect to future development within shoreline areas, it is noted:

- Structures, including driveways, should be built or engineered so that they drain away from water bodies.
- Land areas adjacent to water bodies should remain in their natural condition.
- Impervious buildable area should not exceed 10-15% for newly created lots.

The Plan recognizes the importance of site plan review as a tool to prevent potential environmental impacts associated with development and states "Site plan review shall be applicable to any land use identified as environmentally sensitive and all other land use districts where site plans are required."

Glen Arbor Master Plan

January 2018

With respect to the natural and built environment, it is noted:

- Studies have been undertaken with regard to the health of Glen Lake. Clearly, the health of Glen Lake is a priority for Glen Arbor Township.
- One of the emerging areas of scientific interest in the control of nonpoint-source pollution (NPS) is the detection and analysis of impervious surfaces within watersheds. NPS runoff from urban surfaces is now a leading threat to water quality, and the percentage of impervious surface within a particular watershed has been recognized as a key indicator of the effects of nonpoint runoff and of future water and ecosystem quality.

Key planning implications are discussed in the plan as follows:

- Care must be taken to carefully govern what development does occur in the Township. Planning and zoning policies should encourage, in a reasonable manner, maintenance of the wooded areas, the ground water, water quality in lakes and rivers, the wetlands, and the dune areas, both as ecosystems and as important scenery.
- Glen Arbor Township will forever have the majority of its natural landscape preserved in the National Lakeshore. If residents want to retain nature in the privately owned areas, to protect water quality of the lakes and rivers, and to sustain wildlife populations as part of the nature experience, then they will have to be diligent in caring for the pure water and plant and animal ecosystems in the Township. The Township should continue to foster and maintain positive ongoing relationships with the Glen Lake Association, the Leelanau Watershed Council, various conservancy groups, and others who are dedicated to monitoring the quality of Glen Arbor Township's natural resources.
- Like most water features, Glen Lake and Lake Michigan have attracted development over the years, and Glen Lake is mostly surrounded by residential development. However, great care must be taken to ensure that development does not begin to degrade the natural features that attracted it in the first place. The Township must remain vigilant in protecting the water quality in the lakes. Reducing fertilizer use and working to combat invasive species are methods that can maintain the pristine water quality of the community.

In regard to future land use, the plan states:

- This Plan provides the basis for maintaining the outstanding natural features of the Township, while accommodating future development. That means that when development does take place, it should be done with great concern for the natural and cultural features of the Township, both public and private, that make the Township

unique. Success will mean that both the existing generation and future generations will be able to enjoy the natural landscape and other amenities of the Township.

With regard to waterfront areas, the plan notes:

- The predominant use of the waterfront areas is for seasonal or year-round dwellings. New nonresidential uses on lots not already used for that purpose are not permitted. Bigfoot regulations are necessary to prevent overbuilding of structures on a parcel. Excessive mass of structures on waterfront lots is out of character with the shoreline area and increases storm water runoff with negative effects on water quality.

Glen Lake Facts and Figures: A Basis for Decision-making

The information below has been gleaned from technical reports and scientific journals and provides a basis and justification for considering a watershed-wide lake protection strategy for Glen Lake.

- With a surface area of nearly 5,000 acres, Glen Lake is in the top 1% of lakes in Michigan in terms of size.
- Glen Lake has excellent water quality. Nutrient levels are low and water transparency is exceptional. The lake is a unique and valuable natural resource.
- High quality lakes such as Glen Lake are rapidly disappearing. More frequent, high intensity storm events associated with climate change may be contributing to the decline.
- Ongoing monitoring indicates dissolved oxygen depletion is occurring in the deep waters of Glen Lake during late summer, an early warning sign that water quality is deteriorating.
- An Environmental Protection Agency study of lakes nationwide found that lakes lacking natural shoreline vegetation are three times more likely to be in poor biological condition. Shoreline vegetation helps to reduce the impact of nearly all pollutants that currently threaten Glen Lake.
- The water quality of Glen Lake is largely a reflection of land use activities in the watershed. The Glen Lake watershed is 29,721 acres and includes portions of four townships, three of which border directly on the lake.
- While much of the land bordering the lake is developed, most of the watershed is undeveloped and largely forested. Soils in the watershed are predominantly sand with relatively rapid permeability. When it rains, water quickly infiltrates into the ground and becomes groundwater, the primary source of water to Glen Lake. In fact, about 50% of Glen Lake's water supply is from groundwater.
- In the Glen Lake-Crystal River Watershed Management Plan it was noted: *Groundwater is an extremely important factor in the hydrological budget of Glen Lake. Therefore, it is essential that groundwater is replenished or "recharged." This underscores the importance of protecting upland areas from impervious surfaces or other development that can inhibit the percolation of precipitation through the soil into the groundwater and decrease groundwater recharge...*
- A study by the Center for Watershed Protection found that adverse water quality and hydrologic impacts have been observed in watersheds with as little as 10% imperviousness.

- Without proper development and redevelopment controls, future development of the watershed has the potential to adversely impact the quality and quantity of water entering Glen Lake. While development of the watershed is inevitable, low impact development techniques can be used to minimize these impacts.
- Master plans for all the townships bordering Glen Lake cite and recognize the value and importance of protecting Glen Lake and provide sound justification for land use regulations that protect water quality.
- To a large extent, future development in the watershed will be dictated by local planning and zoning.
- The proactive adoption of the Glen Lake-Crystal River Watershed Overlay District by the townships bordering Glen Lake would help to preserve the unique hydrologic balance that exists in the watershed and protect Glen Lake for years to come.